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## The Spooky Side to a Seller's Market

Lindsey Fafoglia\*

The St. Louis area is experiencing a real estate boom thanks to the Covid-19 pandemic.<sup>1</sup> Rather than a “boomtown,” St. Louis is considered a “Zoom-town,” according to local real estate agents, because the area is experiencing a surge in home sales and housing prices due to the increase in remote work and school.<sup>2</sup> With home prices up 11 percent, and pending sales up 18 percent from last summer to this summer,<sup>3</sup> it is safe to say it is a seller's market. But, other than the lack of bargaining power with prices, there are some other downsides to sellers having all the power, especially when it comes to disclosures. October is creeping closer, and although visiting a haunted house is a must for many during the Halloween season, most people prefer that the ghosts stay out of their own abodes. But, do those who hear footsteps in the night, doors slam shut, or know of a homicide that occurred on the property need to disclose that to potential buyers? Usually, no.<sup>4</sup> In most states, mandatory seller's disclosures are silent on “psychological impacts” that could stigmatize the home, such as deaths, homicides, suicides, and hauntings that have occurred in the house.<sup>5</sup>

In Missouri, there is no requirement for those selling their homes to disclose if there have been psychological impacts on the property, and there is no mention of the terms “supernatural” or “paranormal activity” in the seller's disclosure statutes.<sup>6</sup> Section 442.600 of the Missouri Property Code states that sellers do not need to let potential buyers know if felonies, murders, or suicides have occurred on the property, or if any prior occupants have been diagnosed with HIV or AIDS.<sup>7</sup> Therefore, homeowners do not need to

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<sup>1</sup> Abby Llorico, *St. Louis is considered a pandemic “Zoom-town,”* KSDK (Sept. 11, 2020), <https://www.ksdk.com/article/news/local/st-louis-considered-pandemic-zoom-town/63-c8a8011a-6e54-4bf3-a1bd-a20c19b65733>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Press Release, Zillow, *Selling a Haunted House? Here's What You Need to Know* (Oct. 29, 2019), <http://zillow.mediaroom.com/2019-10-29-Selling-a-Haunted-House-Heres-What-You-Need-to-Know>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> MO. REV. STAT. § 442.600 (2016).

disclose to buyers if there are any ghostly occupants that will not be moving out when the house is sold. However, not all weird home history is kept under wraps in Missouri; in fact, sellers are required to disclose in writing if the property has ever been used to produce methamphetamine, as it can leave toxic chemicals behind.<sup>8</sup> So, sellers in Missouri are on the hook for former meth labs, but not phantoms lurking the basement, which is at least a start when it comes to expanding required disclosures.

Four states do mention paranormal activity in their seller's disclosure laws: New Jersey, New York, Massachusetts, and Minnesota.<sup>9</sup> The statutes in Minnesota and Massachusetts state that it is unnecessary to disclose if the house is haunted by paranormal activity or the supernatural. In New Jersey, homeowners must be a bit more truthful about any departed roommates roaming their homes, but only if asked by the buyer.<sup>10</sup> New York law states sellers can keep their mouths shut if a homicide, suicide, or accident occurred in the house.<sup>11</sup> However, the state is home to the famous court case that declared "as a matter of law, the house is haunted."<sup>12</sup> In *Stambovsky v. Ackley*, a woman selling her Victorian mansion, which she had promoted locally and nationally as haunted by poltergeists, was silent on the fact to the buyers.<sup>13</sup> She sold the home to unaware outsiders, who wanted to rescind the sale upon learning that the home had been advertised as haunted.<sup>14</sup> The judge decided homeowners cannot perpetuate the rumors or idea that their house is haunted, or promote it as a haunted house, and then take advantage of potential buyers who are innocent to the home's famous ghostly inhabitants.<sup>15</sup> Whether or not more state disclosure laws will ever add language pertaining to the paranormal, this case at least provides precedent for those tricked into buying a haunted house.<sup>16</sup> The house from the case is currently on the market, and has been for almost a

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<sup>8</sup> MO. REV. STAT. § 442.606 (2016).

<sup>9</sup> *Selling a Haunted House? Here's What You Need to Know*, *supra* note 4.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Stambovsky v. Ackley*, 572 N.Y.S.2d 672, 674 (N.Y. App. Div. 1991).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 677.

<sup>16</sup> *Id.*

year, if you are in the market for a paranormal palace.<sup>17</sup> A handful of states have statutes that require homeowners to disclose deaths that occurred on the property, or at least upon buyer's inquiry.<sup>18</sup> However, in most states, sellers can keep their lips sealed on the spooky spectacles inside their home.<sup>19</sup>

So, what do superstitious buyers do if they want to know the haunted history of a home before they put down an offer? Most states follow the contract doctrine of *caveat emptor*, or "buyer beware," meaning that buyers are on their own if their purchase is not what was expected.<sup>20</sup> Buyers should be sure to check local disclosure laws, but if you are in Missouri, you might be out of luck unless the seller is feeling honest when preparing the seller's disclosure form. However, if asked, usually real estate agents and sellers are obligated to be truthful.<sup>21</sup> Personal research of the property might be the best way to discover any oddities with prospective property. Checking old newspapers for deaths, talking to neighbors, and Googling the property address might bring to light any odd incidents that occurred at or near the home, or if a paranormal reality show has visited the street.<sup>22</sup> House hunters can also check purchase history to see if the house has been bought and sold a suspicious amount of times over the years, which might point to some reason for why owners are not able to get comfortable living in the house.<sup>23</sup>

The market is moving fast in St. Louis right now, and sellers likely have the upper hand with price and timing. But, doing some extra research on that nineteenth century brick house for sale in Soulard, or a Victorian mansion in the Central West End, could bring some peace of mind that the ghouls

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<sup>17</sup> Real Estate Listing for 1 Laveta Place, Nyack, NY, ZILLOW [https://www.zillow.com/homedetails/1-Laveta-Pl-Nyack-NY-10960/32384985\\_zpid/](https://www.zillow.com/homedetails/1-Laveta-Pl-Nyack-NY-10960/32384985_zpid/) (last visited Sept. 15, 2020).

<sup>18</sup> *Selling a Haunted House? Here's What You Need to Know*, *supra* note 4.

<sup>19</sup> *Id.*

<sup>20</sup> Gonzalo Fernandez, *The Paranormal Side of Real Estate Law*, FERNANDEZ LAW, LLC (Oct. 24, 2018), <https://stltriallawyers.com/real-estate-laws/>.

<sup>21</sup> Dana Bull, *Buyer Beware, Is Your Future House Haunted?* ZILLOW (July 14, 2019), <https://www.zillow.com/blog/how-to-tell-if-a-house-is-haunted-230693/>.

<sup>22</sup> Ana Durani, *How to Avoid Unexpectedly Buying a Haunted House – Because it Could Happen to You*, REALTOR.COM (Oct. 31, 2019), <https://www.realtor.com/advice/buy/unexpectedly-buy-haunted-house/>.

<sup>23</sup> *Id.*

stay in the horror movies you watch this Halloween, and out of your living room.

Edited by Ben Davisson